IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2291 OF 2005
WITH
NOTICE OF MOTION NO.145 OF 2006

Voltas Limited. ...Petitioner.
Vs.
Kishore Berde. ...Respondent.

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Mr.C. U. Singh, Senior Advocate with Mr. Ankit Mehta i/b. M/s. Haresh Mehta & Co. for the Petitioner.
Mr. N. M. Ganguli for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

November 27, 2006.

P.C.

Notice of Motion 145 of 2006 which was taken out by the Respondent-workman for an interim order on principles analogous to Section 17B of the Industrial Disputes Act, 1947, was placed on the Board for hearing. At that stage, it was urged on behalf of the Petitioner that by the order dated 2nd July 2005, the Industrial Court has entertained a complaint essentially falling under Item 1 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, and granted reinstatement with full back wages and continuity of service though the jurisdiction was with the Labour Court. The

submission was that the complaint pertained to termination, a subject falling under Item 1 of Schedule IV, and it was therefore, the Labour Court which would have jurisdiction.

At that stage, Counsel appearing on behalf of the Respondent-workman had sought an adjournment to take instructions as to whether the Respondent-workman would be agreeable to the order of the Industrial Court being set aside by consent so that the complaint could be re-presented to the Labour Court for a decision afresh. Accordingly, proceedings have been placed for hearing today.

Counsel appearing on behalf of the Respondent-workman has stated on instructions that the workman would like to seek directions from the Court for the transfer of the complaint filed before the Industrial Court to the Labour Court. In the circumstances, it has been agreed that the petition may be taken on Board by consent and that the order of the Industrial Court dated 2nd July 2005 may be quashed and set aside.

In the circumstances, on the joint request of the Learned Counsel, the petition is taken on Board and called for hearing. By

consent, the impugned order of the Industrial Court dated 2nd July 2005 is quashed and set aside. Complaint (ULP) 315 of 2002 shall stand transferred from the file of the Industrial Court to the Labour Court. The President of the Industrial Court shall preferably within four weeks assign the complaint for hearing to any of the Labour Courts exercising jurisdiction in the matter. The Respondent shall be at liberty to carry out consequential amendments to the complaint. It has been agreed that the evidence recorded before the Industrial Court shall be read as evidence in the complaint before the Labour Court upon transfer of the proceedings. Parties, however, shall be at liberty to file an application for leading additional evidence if so advised and any such application shall be heard and disposed of by the Labour Court. The employer will be at liberty to file a Written Statement to the complaint as amended within four weeks of service of the amended complaint. The Labour Court is requested to expedite the disposal of the Complaint and to endeavour to do so on or before 31st May 2007. The Petition as well as the Notice of Motion are accordingly disposed of.

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